

REMARKS

Claims 1-6 and 18-31 are pending in the present application. Claims 7-17 were canceled. Claims 1 and 5 were amended, and Claims 18-31 have been added. Reconsideration of the claims is respectfully requested. A total of twenty (20) claims are now pending in the application, including three (3) independent claims.

I. 35 U.S.C. § 101

In the Office Action, the Examiner rejected Claims 1-6 under 35 U.S.C. § 101 as being directed toward non-statutory subject matter.

In response, Claim 1 has been amended to recite the method thereof as a computer implemented method, for selling and arranging shipment of goods, by operating seller and buyer computers that are both connected to a network. Moreover, respective steps of Claim 1 now require use of the seller and buyer computers, in order to carry out the method.

In view of these amendments, Applicants respectfully consider any rejection of Claim 1 under U.S.C. §101, as well as of Claims 2-6 and 18 respectively depending from Claim 1, to be overcome.

II. 35 U.S.C. § 102. Anticipation

The Examiner rejected claims 1, 2, 3 and 6 under 35 U.S.C. § 102(b) as being anticipated by an article of *Harrington*, entitled "New trade terms you need to know," Traffic Management, May 1991. This rejection is respectfully traversed.

III. 35 U.S.C. § 103. Obviousness

The Examiner rejected Claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *Harrington* in view of U.S. Patent No. 6,460,020, to *Pool et al.* The Examiner rejected Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *Harrington* in view of U.S. Patent Application Publication No. 2002/0032573, to *Williams et al.* These rejections are respectfully traversed.

IV. Purpose of Applicants' Invention

The invention is directed to a method wherein a seller receives an order to purchase goods from a buyer, and the order is sent from the buyer's client computer to the seller's server computer. The method further includes an indication transmitted from the seller to the buyer that shipment of the goods may be accomplished via a preferred delivery agency of the buyer. Applicants recognized that a buyer could enjoy significant benefits, if the buyer's preferred delivery agency could be used. These teachings of Applicants are set forth in the application, such as at page 2, lines 13-16 and lines 21-26. In view of Applicants' teachings, Claim 1 has now been amended to read as follows:

1. A computer implemented method for selling and arranging shipment of goods over a network, wherein a seller computer operated by a seller and a buyer computer operated by a buyer are both connected to the network, said method comprising the steps of:

receiving at said seller computer an order sent from said buyer computer to buy said goods;

transmitting from said seller computer to said buyer computer, over said network, an option from said seller allowing said buyer to select either a buyer-preferred delivery agency or a seller-preferred delivery agency;

sending a transmission from said buyer computer to said seller computer indicating buyer selection of said buyer-preferred delivery agency; and

in response to said buyer selecting said buyer-preferred delivery option, making said goods available for pick-up by said buyer's preferred delivery agency.

Claim 1 now recites an option transmitting step, whereby the seller allows the buyer the option to select either a buyer-preferred or a seller-preferred delivery agency. Claim 1 further recites the step of sending a transmission from the buyer to the seller computer, to indicate buyer's selection of the buyer-preferred delivery agency. These two steps are taught in the application such as at page 9, lines 13-22 and by Figure 2. Figure 2 more specifically shows a shipping options web page 214, on seller's web server 210. As taught at page 9, lines 15-17, web page 214 is used to transmit, from seller's server computer 210 to buyer's client computer 230, an option for the buyer to select either buyer's or seller's preferred delivery agency. By darkening the appropriate circle on

shipping options web page 214, the buyer sends a selection of buyer preferred delivery agency back to the seller.

V. **Rejection of Claim 1**

The Examiner stated the following in rejecting Claim 1:

Re - claim 1: The disclosed invention is a method of arranging shipments according to a buyer's preference. Specifically, the currently claimed invention is directed towards a method comprising a buyer selecting a delivery agent, and coordinating the delivery of goods directly with the delivery agent. Further the claim invention comprises the step of informing the seller that the buyer has coordinated the delivery of goods and that a delivery agent has been assigned. The seller makes these goods available for pick up for the by buyers preferred agent.

Claim 1 is essentially a method comprising three steps:

- Step 1: A seller receiving an order from a buyer,
- Step 2: Allowing the buyer to choose a delivery agent
- Step 3: The seller makes the goods available for pick up by said buyers preferred delivery agent.

On page 61 of the May addition of "Traffic Management" Lisa Harrington discloses (in an article titled: "New Trade Terms you need to know") that it is wellknown in the art for a seller to receive an order from a buyer (inherent), allowing the buyer to choose a delivery agent (see page 2 of attached print out, lines 15-17), and that the seller makes the goods available for pick-up by the buyer's preferred delivery agent (see page 2 of the attached print out, lines 8-13, where Harrington discloses that the seller "has fulfilled his obligation to deliver when he has made the goods available at his premises). [Office Action dated November 15, 2005, page 7]

A section of Harrington that includes the portion cited by the Examiner reads as follows:

EXW: Ex Works (...named place). The seller fulfills his obligation to deliver when he has made the goods available at his premises (i.e. works, factory, warehouse) to the buyer. He is not responsible for loading the goods on the vehicle provided by the buyer or for clearing the goods for export, unless otherwise agreed. The buyer bears all the costs and risks involved in taking the goods from the seller's premises to the desired destination. This term thus represents the minimum obligation for the seller. It should not be used when the buyer cannot carry out directly or indirectly the export formalities. In such situations, the FCA term should be used.

FCA: Free Carrier (...named place). The seller satisfies his obligation to deliver when he has handed over the goods, cleared for export, into the charge of the carrier named by the buyer at the named place or point.

VI. Response to Rejection of Claim 1

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process disclosed by a prior art reference, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218, U.S.P.Q. 781 (Fed. Cir. 1983). Moreover, it is a fundamental principle of patent law that prior art must be considered in its entirety.

MPEP 2141.02.

The Harrington article briefly defines certain terms used in international transactions, and discusses the respective obligations that different terms place upon a buyer and seller. Harrington discloses that in some types of transactions the buyer can select the carrier of goods. However, such article nowhere discloses the option transmitting step of Claim 1, that is, transmitting an option from the seller computer to the buyer computer that allows the buyer to select either a buyer-preferred or a seller-preferred delivery agency. Moreover, such article fails to disclose the option transmitting step in combination with all other elements of Claim 1. Such elements specifically include the step of sending a transmission from the buyer computer to the seller computer to indicate selection of the buyer-preferred delivery agency. These steps in the over-all combination of Claim 1 clearly distinguish over the Harrington article.

Applicants consider that neither Pool et al. nor Williams et al., either alone or in any combination with each other or Harrington, overcomes the deficiencies of Harrington discussed in connection with Claim 1.

VII. Patentability of Remaining Claims

Claims 2-6 and 18 respectively depend from Claim 1, and are each considered to patentably distinguish over the art for the reasons given in support thereof.

Claim 5 is additionally considered to distinguish over the art, including the cited Williams et al. reference, in reciting the communicating step thereof. Such step teaches

communicating information from the seller to the buyer, in order to lead the buyer to select a particular agency as the buyer's preferred delivery agency. In contrast, the Williams et al. reference, such as at paragraph [0017], is clearly directed to establishing a very extensive centralized entity, referred to as the "Enterprise Shipping System" or "System". Williams emphasizes that it is this System, rather than the seller in a transaction, that provides System users with shipping options.

VIII. Conclusion

It is respectfully urged that the subject application is patentable over the cited Harrington, Pool et al. and Williams et al. references, and over any combination thereof, and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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